



INTERIOR BOARD OF INDIAN APPEALS

Estate of Cyprian Buisson

53 IBIA 176 (05/19/2011)

Dismissing and Denying Petitions for Reconsideration of:
53 IBIA 103

Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. 43 C.F.R. § 4.315(a); *Estate of Robert Henry Moran, Sr.*, 45 IBIA 26 (2007). Subsection 4.315(a) requires any party petitioning for reconsideration to provide “a detailed statement of the reasons why reconsideration should be granted.”

We dismiss the McLaughlins’ petition for reconsideration on the grounds that it is untimely. They did not mail or deliver their petition for reconsideration to the Board, but sent it to the Superintendent of BIA’s Standing Rock Agency. The Agency then forwarded the petition to the Board where it was not received until four days after the time for seeking reconsideration had lapsed.³ Because the McLaughlins sent their petition to the wrong entity, they must therefore bear the risk that their appeal would not reach the Board in a timely manner.⁴

We deny the Bieglers’ petition because it fails to set forth any substantive disagreement with our decision. The petition seeks reconsideration for “breach of trust,” and because the Bieglers believe that they are rightfully entitled to inherit as next-of-kin of Cyprian Buisson instead of his widow. Such conclusory assertions lack any basis, let alone set forth extraordinary circumstances, justifying reconsideration. The Bieglers do not provide any factual or legal support for their claims nor do they elaborate on or show why these claims undermine our March 18 decision. Moreover, the breach of trust claim is raised for the first time in the petition for reconsideration. The Board ordinarily does not consider claims raised for the first time in a petition for reconsideration, *Estate of Reginald Paul Walkingsky*, 52 IBIA 270 (2010), and there is no reason to depart from this practice under the present circumstances. To the extent that the Bieglers seek damages for their breach of trust claim, this Board lacks authority to award monetary relief. *Estes v. Acting Great Plains Regional Director*, 50 IBIA 110, 117 n.7 (2009).⁵

³ The McLaughlins’ petition for reconsideration does not differ in substance from the Bieglers’ petition. Therefore, even if we were to consider the merits of their petition, we would deny reconsideration for the same reason that we now deny reconsideration of the Bieglers’ petition. *See infra*.

⁴ The parties were provided with a copy of the Board’s regulations with its March 5, 2009, Pre-Docketing Notice, which includes § 4.315 entitled **Reconsideration of a Board decision** and informs parties of the timeframe for seeking reconsideration as well as advises that such petitions must be filed *with the Board* within that timeframe. Therefore, the parties were aware of the timeframe and procedure for seeking reconsideration.

⁵ We also note that Robert Biegler likely lacks standing to pursue reconsideration because he does not appear to be a putative heir. Both Robert and his sister, Zelda, are related to
(continued...)

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dismisses the McLaughlins' petition for reconsideration as untimely, and denies the Bieglers' petition for reconsideration of 53 IBIA 103.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

⁵(...continued)

Buisson through their mother, Roletta Louise Derby, who died testate in 2000. In her will, which was approved in proceedings to probate her estate, *see In the Matter of the Estate of Roletta Louise Derby*, Probate No. P000002636IP (Dep. of Int. Mar. 27, 2006), Roletta devised the whole of her estate to her daughter, Zelda. Therefore, unless Robert is related to Cyprian Buisson through another relative, he is ineligible to inherit any portion of Buisson's estate, and would lack standing to petition for reconsideration.